

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LAURENCE QUIMSON “ALIAS” LALAINÉ, ACCUSED-APPELLANT.

Ponente: SABIO, J.L., JR., J.

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SABIO, J.L., JR., J.:

Under review is the September 14, 1999 Decision[1] of the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 37 in Criminal Case No. L-5864, finding accused-appellant LAURENCE QUIMSON alias “LALAINÉ” guilty beyond reasonable doubt of violation of estafa defined and penalized under Article 315, paragraph 2 (d) of the Revised Penal Code and sentencing her to suffer the penalty of thirty (30) years of reclusion perpetua, with the accessory penalties of civil interdiction for life and perpetual absolute disqualification, and to indemnify private respondent the amount of P127,000.00 plus interest thereon at the legal rate from April 20, 1998, until fully paid, and costs.

The accusatory portion of the Information[2] under which the accused-appellant Laurence Quimson alias “Lalaine” was tried and convicted, reads as follows:

“That on or about the 3[rd] day of November, 1997 in Barangay Baay, municipality of Lingayen, province of Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused purchased from the complainant Emmanuel Austria 55,000 pieces of bangus fingerlines (sic) worth P132,000.00 and in payment thereof and with intent to defraud, did then and there willfully, unlawfully and feloniously paid P5,000.00 cash and a PNB Republic Bank Check No. 1393766 post-dated February 6, 1998 in the amount of P127,000.00 knowing fully well that at the time of issuance thereof the said check is without funds such that when the check was presented for encashment with the drawee bank the same was dishonored for having been drawn against Insufficient Funds and despite repeated demands for her to pay the face value of the check, she failed to do so up to the present, to his damage and prejudice.

CONTRARY to Art. 315, par. 2(d), Revised Penal Code.”

Upon her arraignment on January 24, 1996, the accused pleaded not guilty to the charge. Trial on the merits thereafter ensued.

The trial court summarized the evidence for the prosecution as follows:

Emmanuel Austria is a 25-year old businessman engaged in raising and selling bangus fingerlings in his fishpond in Barangay Malimpec, Lingayen, Pangasinan. On October 25, 1997, he met the accused, Laurence “Lalaine” Quimson at the house of his cousin in Brgy. Domalandan, Lingayen, Pangasinan. She needed 55,000 pieces of bangus fingerlings to be cultured and raised in her fishpond in Brgy. Baay, Lingayen, Pangasinan. She went to his fishpond and she liked the fingerlings that she saw, so she ordered 55,000 pieces of bangus fries to be delivered to her fishpond in Baay, for which the agreed price was P2.40 per piece or a total of P132,000.00.

As agreed upon by Emmanuel Austria and accused, “Lalaine” Quimson, on November 3, 1997, he brought the bangus fingerlings to her fishpond in Sitio Singit, Baay, Lingayen on his truck driven by Leolarte Yar-Santos.

Accused “Lalaine” Quimson paid Emmanuel Austria P5,000.00 cash and a PNB Republic Check for the amount of P127,000.00, postdated February 5, 1998.

When the check matured and the payee, Emmanuel Austria, tried to encash it with the bank, it was returned to him on the ground of “DAIF” (drawn against insufficient fund). He immediately went to the house of Lalaine Quimson, and she requested for a 30-day extension as she had no money. Thereafter, she requested for an additional 15-day extension, and then, another 15-day extension. She having failed to pay any amount on the check, he referred the matter to Atty. Rafael Campos of the Public Attorney’s Office (PAO) who prepared a demand letter which he signed and sent by mail to and received by “Lalaine” Quimson. Despite the demand letter, she still failed to pay on the check. So, Emmanuel Austria filed with the PAO his Affidavit-Complaint, dated May 28, 1998, and Atty. Campos conducted a pre-litigation conference in his office at the PAO, wherein Emmanuel and Lalaine attended. Despite effort of Atty. Castro to have them settle their differences, nothing came out of the conference. Hence, the filing of the complaint for estafa.

On the other hand, the accused Laurence “Lalaine” Quimson and her husband, Peter Quimson, do not deny that she issued the postdated PNB Republic Bank Check, but she issued the check to comply with the condition imposed by Emmanuel Austria merely to guarantee the payment by her husband of the unpaid balance of the purchase price of the bangus fingerlings that Austria sold and delivered to her husband at their fishpond and upon the assurance of Austria to her that he would not encash the same. The husband and wife claim that the transaction was between Emmanuel Austria and the husband, Peter Quimson alone; and the wife, accused Laurence “Lalaine” Quimson, had nothing to do with it and did not know anything about it, except as a guarantor, because she is employed as a public school nurse in Domalandan, Lingayen, Pangasinan, and the fishpond business is exclusively the business of her husband.

On September 14, 1999, the court a quo rendered its now assailed decision finding the accused guilty beyond reasonable doubt of the crime charged. The dispositive portion[3] of the assailed decision reads:

“WHEREFORE, the accused, LAURENCE QUIMSON, alias “Lalaine”, is hereby found guilty beyond reasonable doubt of the crime of ESTAFA, defined and penalized under paragraph 2 (d), Article 315 of the Revised Penal Code, as amended by RA No. 4885, and she is hereby sentenced to suffer the penalty of imprisonment of Thirty (30) years of reclusion perpetua, with the accessory penalties of civil interdiction for life and perpetual absolute disqualification, and to indemnify Emmanuel Austria in the amount of P127,000.00 plus interest thereon at the legal rate from April 20, 1998, until fully paid, and costs.

SO ORDERED.”

Accused-appellant filed a notice of appeal from the decision above-quoted, raising the following assignment of error[4]:

I

THE TRIAL COURT ERRED IN CONVICTING APPELLANT OF THE OFFENSE OF ESTAFA DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HER GUILT BEYOND REASONABLE DOUBT

II

THE TRIAL COURT ERRED IN CONVICTING APPELLANT, AS THERE IS ABSENT THAT QUANTUM OF PROOF NECESSARY OR SUFFICIENT TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION

OF GUILT

III

THE TRIAL COURT ERRED IN DISREGARDING THE TESTIMONY OF PETER QUIMSON THAT HE PARTIALLY PAID COMPLAINANT THROUGH HIS FATHER AND WIFE MONTHS BEFORE THE MATURITY OF THE CHECK

IV

THE TRIAL COURT ERRED IN NOT RULING THAT THE FAILURE OF THE PROSECUTION TO PRESENT COMPLAINANT'S FATHER AND WIFE AS WITNESSES IS FATAL TO THE CASE AGAINST THE APPELLANT

V

THE TRIAL COURT ERRED IN CONVICTING THE APPELLANT NOT ON THE BASIS OF THE STRENGTH OF THE EVIDENCE FOR THE PROSECUTION BUT RATHER ON THE WEAKNESS OF THE EVIDENCE FOR THE DEFENSE

VI

THE TRIAL COURT ERRED IN ORDERING THE APPELLANT TO SUFFER THE PENALTY OF THIRTY (30) YEARS IMPRISONMENT

In support thereof, accused-appellant believes that she should have been acquitted of the offense charged as the evidence presented by the prosecution is insufficient to sustain her conviction.

According to accused-appellant, it was her husband, Peter Quimson, who contracted with Emmanuel Austria for the purchase of the bangus fingerlings and that the check she issued was merely to guarantee the obligation of her husband. Complainant was informed that the check was not funded and was requested not to encash it.

Accused-appellant maintains that she cannot be held liable for estafa because when the postdated check was issued, she informed the complainant that there was no sufficient fund in the bank to cover the value of the check. The fact that appellant repeatedly informed complainant of the insufficiency of the funds with the bank militates strongly against the trial court's decision that appellant is liable for estafa.

We find the appeal meritorious.

Generally, findings and conclusions of the trial court are binding upon Us in the absence of a clear showing of arbitrariness or palpable error^[5] or unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.^[6]

To our mind, the prosecution failed to discharge its burden of proving beyond reasonable doubt that the offense of estafa as defined under the Revised Penal Code on Article 315, 2 (d), was committed by appellant. More particularly, the prosecution did not prove the existence of fraud to constitute the issuance of the check as fraud contemplated by the law on estafa.

Article 315, paragraph 2 (d) of the Revised Penal Code, as amended by Republic Act No. 4885, for which accused-appellant was charged and convicted, penalizes estafa when committed, among other things, --

“2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of fraud:

xxx xxx xxx

“(d) by posting a check, or issuing a check in payment of an obligation when the offender had no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check...”

Under the Article 315, paragraph 2 (d) of the RPC, estafa is committed by any person who shall defraud another by false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud. It is committed with the following essential elements which must be proved to sustain a conviction:

- (1) a check is drawn or postdated in payment of an obligation contracted at the time the check was issued;
- (2) there are no funds sufficient to cover the check; and
- (3) the payee sustains damage thereby.

Basically, the two essential requisites of fraud or deceit and damage or injury must be established by sufficient and competent evidence in order that the crime of estafa may be established. In order to constitute estafa under the statutory provisions, the act of postdating or of issuing a check in payment of an obligation must be the efficient cause of the defraudation; accordingly, it should be either prior to or simultaneous with the act of fraud. In fine, the offender must be able to obtain money or property from the offended party by reason of the issuance, whether postdated or not, of the check. It must be shown that the person to whom the check is delivered would not have parted with his money or property were it not for the issuance of the check by the other party[7].

Damage and deceit are essential elements of the offense and must be established with satisfactory proof to warrant conviction. The false pretense or fraudulent act must be committed prior or simultaneously with the issuance of the bad check. Thus, the drawer of the dishonored check is given three days from receipt of the notice of dishonor to cover the amount of the check. Other wise a prima facie presumption of deceit arises.[8]

In this case, the trial court failed to consider the testimonies of appellant with respect to the agreement that the check issued by the accused shall be a mere guarantee for the eventual payment of the bangus fingerlings delivered to accused-appellant.

In failing to prove the element of deceit, the prosecution failed to prove beyond reasonable doubt that appellant is guilty of estafa under Article 315, paragraph 2 (d) of the Revised Penal Code.

The transaction between appellant and Austria, in our view, was one for a loan of the bangus fingerlings, and she issued the check to guarantee payment thereof. As such, she has the obligation to make good the payment of the items she purchased. But such obligation is civil in character and in the absence of fraud, no criminal liability under the RPC arises from the mere issuance of a postdated check as a guarantee of payment. Complainant Austria by delivering the bangus fingerlings to the accused-appellant without promptly getting paid, for all intents and purposes, had sold on credit, the amounts due thus turning into simply money obligations.

The trial court convicted the appellant on the general allegation that all the elements of estafa under Art 315 2 (d) f the RPC had been proved by the prosecution without making any reference to or giving any proof of the actual fraud that appellant allegedly committed to make her liable for estafa. It is elementary that where an allegation in the information is an essential element of the crime, the same must be proved beyond reasonable doubt to sustain a conviction. In this case, the prosecution did not establish specifically and conclusively the fraud alleged as an element of the offense charged.

The prosecution failed to establish beyond a shadow of doubt that appellant employed deceit. Its evidence was overcome by the defense's proof that the check was issued to guarantee a pre-existing obligation, as in fact the complainant granted the accused an extension of a total of sixty (60) days for the accused to pay the obligation. In effect therefore, appellant issued the check as evidence of indebtedness to cover the value of the bangus fingerlings. It has been ruled in this connection that a drawer who issues a check as security or evidence of investment is not liable for estafa.[9]

Furthermore, We find that accused-appellant acted in good faith during the transaction. Appellant asked the complainant not to deposit the check knowing that it was not funded, and in fact, complainant granted the accused extensions. Good faith is a defense to a charge of estafa by postdating a check.

As held in *People vs. Ojeda*[10], the Revised Penal Code was enacted to penalize unlawful acts accompanied by evil intent denominated as *mala in se*. The principal consideration is the existence of malicious intent. There is concurrence of freedom, intelligence, and intent which together make up the "criminal mind" behind the "criminal act". Thus, to constitute a crime, the act must, generally and in most cases, be accompanied by a criminal intent. *Actus non facit reum, nisi mens sit rea*. No crime is committed if the mind of the person performing the act complaint of is innocent.

In the case at bar, the evidence for the prosecution is concededly weak. In such cases, even if the evidence for the defense is also weak, the accused must be duly accorded the benefit of the doubt in view of the constitutional presumption of innocence that an accused enjoys. When the circumstances are capable of two or more inferences, as in this case, one of which is consistent with the presumption of innocence while the other is compatible with guilt, the presumption of innocence must prevail and the court must acquit.[11]

Courts are mandated to "put prosecution evidence under severe testing". Furthermore, the constitutional presumption of innocence requires them to take "a more casual consideration" of every circumstance or doubt favoring the innocence of the accused.[12] The evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense.[13] Considering the failure of the prosecution to discharge its burden of proof and overcome the constitutional presumption of innocence, it is not only appellant's right to be freed; it is even more, the Court's constitutional duty to acquit her.[14]

WHEREFORE, the judgment appealed from is hereby REVERSE and SET ASIDE. The accused-appellant is ACQUITTED of the crime charged, for lack of sufficient evidence to prove fraud or deceit beyond reasonable doubt. However, she is ordered to pay private complainant the balance of her obligation in the amount of P127,000.00 plus interest of 12% per annum until fully paid. She is hereby ordered released immediately from confinement in the Correctional Institution for Women, Mandaluyong City, unless she is being held for another lawful cause. The director of the Bureau of Corrections is directed to inform the Court of the action taken hereon within five (5) days from notice.

SO ORDERED.

JOSE L. SABIO JR.

Associate Justice

WE CONCUR:

REGALADO E. MAAMBONG

Associate Justice

RAMON M. BATO, JR.

Associate Justice

- [1] Rollo, p. 15
- [2] Original Records, p. 1
- [3] Rollo, p. 22
- [4] Brief for Accused-Appellant, pp. 6-7; Rollo, pp. 76-77
- [5] *People vs Molina, et. al.*, 292 SCRA 742 (1998)
- [6] *People vs Laceste, et. al.*, 293 SCRA 397 (1998)
- [7] *Timbal vs. Court of Appeals*, GR No. 136487, December 14, 2001
- [8] *People vs. Ojeda*, GR Nos. 104238-58, June 7, 2004
- [9] *Pacheco vs. Court of Appeals*, 319 SCRA 595 (1999)
- [10] GR Nos. 104238-58, June 3, 2004
- [11] *People vs. Batocoy, et. al.*, 401 SCRA 478 (2003)
- [12] *People vs. Ratunil*, 334 SCRA 721 (2000)
- [13] *People vs. Canete*, 384 SCRA 411 (2002)
- [14] *People vs. Go*, 411 SCRA 81 (2003)

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